IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.2423 OF 2005

Dilipkumar Dattatray Patil ...Applicant
vs.
Anandrao Bapuso Patil & Anr. ...Respondents

Mr.Sudatta Patil for the Applicant
Mr.K.V.Saste,A.P.P. for State
Mr.V.V.Purwant for the Respondent

CORAM: A.S.OKA,J.
DATE : JUNE 28,2005.

P.C.:

1. Heard Counsel appearing for the parties. By order dated 12th October 2004 passed in Criminal Application No.4102 of 2004 the Applicant was ordered to be enlarged on bail by this Court subject to compliance with various conditions incorporated in the said order. One of the conditions was that the Applicant shall not enter the jurisdiction of Sangli Rural Police Station except for attending the court proceedings during the pendency of the Trial.

2. This application for cancellation of bail is made by one of the alleged Eye Witnesses to the offence. According to the learned Counsel for the Applicant the ground for cancellation of the bail has been incorporated in the paragraph Nos.12 and 13 of this Application. The said paragraphs read thus :

"12. The Applicant further states that however, on 14-01-2005 when the Applicant and Tanaji Daji Patil who is another

prosecution witness were returning to Kaulapur from the hospital of one Dr.Avinash Patil after giving tiffin to his mother was admitted in Dr.Avinash Patil's hospital where there mother is admitted at that time at about 9.45 p.m. near the Sangli College corner, the Respondent No.1/accused stopped the motor cycle of the Applicant and threatened both of them that if the dare to give evidence against him, he would not spare them as he will kill him.

13. The Applicant further states that thereafter there was some chaos and many people gathered there and even the officers of Sangli Police Station reached the spot. After enquiring the Applicant narrated the entire episode to the police and further the Respondent No.1 was taken to Sangli City Police Station and on the complaint of the Applicant, the Respondent No.1 came to be arrested and N.C.No.10/05 was registered for committing offence u/s.506 of I.P.C. and also proceedings u/sec.110 (e) (g) of the Cr.P.C. were also initiated against the Respondent No.1 and thereafter he was released on bail."

3. The Affidavit-in-reply has been filed by the Respondent No.1. Paragraph No.9 of the Affidavit-in-reply lead to the said allegation which read thus :

"I say that the Applicant has suppressed material facts from this Hon'ble Court and has not come in the court with the

clean hands. I say that at the relevant time my wife was staying at Kaulapur, which is my native place. I say that on 14-01-2000 I had gone to bring her back. However, due to the order passed by this Hon'ble Court I was unable to enter the jurisdiction of Sangli Rural Police Station. Therefore, I informed my wife to stay at Yashwant Nagar which is out of the jurisdiction of Sangli Rural Police Station. I say that accordingly a travel ticket was booked with Shivmudra Travels for Sangli to Mumbai. The office of the said travels is situated at Amrai Road, Sangli which is also out of Sangli Rural Police Station. The Applicant was very well aware about the same as he was constantly keeping watch on the movement of my wife from Kaulapur to Sangli. At about 9.00 p.m. the said vehicle was to leave from the said place. However, at that time when myself and wife were standing and waiting for departure, the present Applicant, his brother-in-law Narayan Patil his cousin brother Mahadev Patil and one unknown person came on two motor-cycle. The came close to us and started to man handle me and also started abused to me. When my wife tried to intervene, she was also man-handled by them and was abused by them. It is pertinent to note that the unknown person accompanying them also took photograph of the said incident. At that time the police person came there and all of us were taken to Sangli City Police Station. Thereafter a false and preplanned complaint was lodged by the Applicant herein against me and I was also arrested. My wife was alone at that time did wait for long time and thereafter left the

Police Station to her parents house at Yashwant Nagar. On the very day I was intending to lodge the complaint against the Applicant, however, the same was not recorded on that day. However, on the next day (i.e. 15-1-2005) my wife lodged complaint with Sangli City Police station, on basis of which offence u/sec. 323,504 r/w. 34 of I.P.C. I further say and submit that the statement of my brother-in-law was also recorded who was also eye-witness of the said incident. I further say and submit that an action was also taken against the Applicant and two others, on the basis of my wife. These facts have been intentionally and malafide suppressed by the Applicant."

4. The learned Counsel for the Applicant submitted that the Respondent No.1 is threatening the Eye Witnesses repeatedly. He submitted that of the incident dated 14th January 2003 a N.C. was filed immediately and as a counter blast the wife of the Respondent No.1 has lodged N.C. on the next day in the evening against the Petitioner and others alleging commission of offences under Sections 323, 504 read with Section 34 of the Indian Penal Code. He submitted that the case is at the stage of framing charge. In view of the said conduct of the Respondent No.1 the bail granted may be cancelled and the learned Trial Judge may be directed to proceed with the trial on day to day basis.

5. The learned A.P.P. stated that on the basis of N.C.

filed by the Applicant against the Respondent No.1 the order under Section 110 of the Code of Criminal Procedure, 1973 has been passed against the Respondent No.1 and necessary bond has been executed by the Respondent No.1.

6. After having considered the submissions of the Counsel appearing for the parties and material placed on record, I find that no case is made out for cancellation of bail. The Applicant and the Respondent No.1 have made allegations and counter allegations. Considering the stand taken in the Affidavit-in-reply by the Respondent No.1 and the documents annexed to the Affidavit-in-reply, it is very difficult to accept the case made out by the Applicant in paragraph Nos.12 and 13 of the Application. As stated earlier, on the basis of N.C. filed by the Applicant, the Respondent No.1 has been ordered to submit a bond and the said order has been complied with. Apart from what is stated in paragraph Nos.12 and 13, no other ground for cancellation of bail is pressed into service.

7. No case is made out for cancellation of bail on the basis of the averments made in this Application. Hence, Application is rejected.

JUDGE